

SOUTH DAKOTA BOARD OF NURSING

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IN THE MATTER OF THE LICENSURE :
PROCEEDINGS :

RE: MICHAEL D. KUSEK, R.N. : **ORDER OF SUMMARY**
: **SUSPENSION AND NOTICE OF**
: **HEARING**

License No. R032708,

Licensee.

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WHEREAS, Michael Kusek, R.N., (“Licensee”), is licensed to practice as a
registered nurse in the State of South Dakota and hold license number R-032708; and

WHEREAS, on July 20, 2006, the South Dakota Board of Nursing Office received
an anonymous e-mail regarding the Licensee, which contained allegations of
Methamphetamine use and Licensee assisting others to participate in the use of that drug.
On July 26, 2006, the Department of Corrections was notified of the complaint against
Licensee and Licensee was terminated from employment. On July 31, 2006, the Licensee
was contacted by the South Dakota Board of Nursing staff via phone and Licensee
admitted that he used Methamphetamine in the past and agreed to sign a Voluntary
Refrain from Practice. Licensee was contacted by Mike Coley and the Health
Professional’s Assistance Program (“HPAP”) in a letter dated August 8, 2006. On
August 9, 2006, Licensee signed a Voluntary Refrain from Practice Statement. At an
Informal Meeting with the South Dakota Board of Nursing staff, held on August 15, 2006

Licensee admitted to smoking Methamphetamine in the past, but denied current use. At the Informal Meeting, the Licensee was offered a settlement of the matter, which would consist of the Licensee being mandated into the HPAP program. Licensee did not agree to the settlement at that time as he wished to review it with an attorney. Licensee did agree to continue his Voluntary Refrain from Practice and advised the Board staff that he would contact them within a period of two weeks. When no response was received, Board staff attempted to contact the Licensee on September 6, 2006, without success. A letter was sent to the Licensee on September 28, 2006, asking for a response to the informal settlement offer. Licensee was given until October 13, 2006, to respond. As of December 4, 2006, the Licensee has not contacted the South Dakota Board of Nursing in regards to the Informal Meeting. His phone had been disconnected; and

WHEREAS, based upon the affidavit of Andrew Albers and the above stated conduct, the Board has concluded that the public health, safety and welfare requires emergency action, in that Licensee's actions may endanger the health and safety of those who are, or will be, entrusted to his care in the future; and

WHEREAS, the Board, has a statutory obligation to protect the health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners.

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of

this Order.

2. That based on the above, the Board specifically finds that the public health, safety and welfare requires emergency action against Licensee's license.

3. That based on the above, the Board specifically finds that the actions of Licensee endangers the public health, safety and welfare, and imperatively requires emergency action in that Licensee's may endanger the health and safety of those persons who are or will be entrusted to his care in the future and that these are matters of a nature that would constitute further grounds for discipline of his license to practice nursing under SDCL § 36-9-49.

4. Based upon these findings, Licensee's license to practice nursing in South Dakota is hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 for reinstatement of his license at anytime for "good cause". This Order also affects licensee's privilege to practice in South Dakota. Should licensee change his home state under the Nurse Licensure Compact, then licensee's practice privilege is subject to the same requirements as set forth in this order as his South Dakota license.

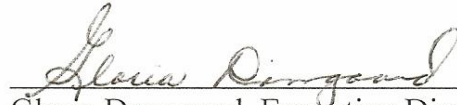
5. That Licensee shall turn in his license to the Board within ten (10) days from the date of this Order and it shall be kept by the Board until further action on this

6. Licensee is hereby notified that any practice of or holding himself out as a registered nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

The South Board of Nursing at a meeting on the 14th day of December, 2006, approved this Order of Summary Suspension as written without modifications and issues its Order of Summary Suspension consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 14th day of December, 2006, by a vote of 8-0.

SOUTH DAKOTA BOARD OF NURSING


Gloria Damgaard, Executive Director

NOTICE OF HEARING

The South Dakota Board of Nursing ("Board") pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Michael Kusek, RN, License No. R032708 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on February 6, 2006, at 1:00 o'clock p.m. at the South Dakota Board of Nursing office located at 4500 S. Louise Avenue, Suite 201, in Sioux Falls, South Dakota.

2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

3. Licensee has a right to request that the agency use the Office of Hearing Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order of Summary Suspension.

4. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 14th day of December, 2006.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director